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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| JENEICE EDMOND, | : | |
| | : | |
| Plaintiff, | : | |
| | : | |
| -against- | : | |
| | : | |
| LIVE WELL FINANCIAL, INC.; MORTGAGE | : | |
| ELECTRONICS REGISTRATION SYSEMS, | : | |
| INC.; SECRETARY OF HOUSING AND | : | 19-CV-703 |
| URBAN DEVELOPMENT (HUD); CHAMPION | : | |
| MORTGAGE; GENERATION MORTGAGE | : | <u>ORDER</u> |
| COMPANY (GMC); NATIONSTAR | : | |
| MORTGAGE LLC. <i>doing business as</i> | : | |
| CHAMPION MORTGAGE; NATIONSTAR | : | |
| REO SUB 1B, LLC; MNB DEVELOPERS LLC.; | : | |
| GERALD S. LEONESCU, ESQ. REFEREE; | : | |
| SCHILLER KNAPP, LEFKOWITZ & | : | |
| HERTZEL, LLP; JOHN "DOES" AND JANE | : | |
| "DOES" 1 THROUGH 100; | : | |
| | : | |
| Defendants. | : | |
| ----- | X | |

VALERIE CAPRONI, United States District Judge:

WHEREAS on January 24, 2019, Plaintiff, proceeding *pro se*, filed a complaint against numerous Defendants, alleging claims pursuant to the Racketeer Influenced and Corrupt Organizations Act ("RICO") and common law fraud, Dkt. 1;

WHEREAS on June 17, 2019, Defendant Live Well Financial, Inc. ("Live Well") informed the Court that an involuntary petition was filed against it in bankruptcy court, Dkt. 28;

WHEREAS the commencement of a bankruptcy case automatically stays any actions that arose before the commencement of the bankruptcy case, *see* 11 U.S.C. § 362(a);

WHEREAS on January 6, 2020, the Court dismissed the RICO claims against the remaining Defendants, in part because Plaintiff failed to allege (1) a pattern of racketeering

activity; (2) the existence of an “enterprise;” (3) the existence of coordination between defendant entities; and (4) more than one instance of wrongdoing, Order, Dkt. 31;

WHEREAS the Court dismissed Plaintiff’s common law fraud claim because Plaintiff failed to allege fraud with particularity as required by Rule 9(b) of the Federal Rules of Civil Procedure, including a failure to allege that Defendants knew that the appraisal value had been “inflated,” *id.*;

WHEREAS Defendant Live Well is required to update the Court every six months as to the status of the bankruptcy stay, *id.*;

WHEREAS on March 30, 2021, the Court explained to Plaintiff that the “bankruptcy case is an entirely different action, that is currently before the United States Bankruptcy Court for the District of Delaware and has docket number 19-11317,” Dkt. 37;

WHEREAS the Court further explained to Plaintiff that “[a]ny claims that Plaintiff may have with respect to that proceeding must be made before the bankruptcy court and are not before the undersigned,” *id.*;

WHEREAS on September 9, 2021, Live Well’s counsel informed the Court that they do not believe Plaintiff has appeared as a creditor or interested party before the bankruptcy court, Decl., Dkt. 38-1 ¶ 6;

WHEREAS on September 10, 2021, the Court granted Live Well’s counsel’s motion to withdraw as Live Well’s attorney, given that Live Well is “non-operational and essentially defunct,” *id.* ¶ 5; and

WHEREAS were the bankruptcy stay to be lifted, the Court would dismiss the claims against Live Well for the same reasons summarized above that the Court dismissed the claims against the remaining Defendants, Order, Dkt. 31;

WHEREAS on September 10, 2021, the Court ordered Plaintiff to show cause, by no later than October 1, 2021, why, in light of the fact that Live Well is essentially defunct and in Chapter VII bankruptcy and in light of the fact that Plaintiff has not filed a proof of claim in the bankruptcy proceeding, this case should not be dismissed with prejudice, Dkt. 40;

WHEREAS the Court informed Plaintiff that if she did not show cause, or if she did not respond to that Order by October 1, 2021, the case would be dismissed with prejudice, *id.*;

WHEREAS on September 30, 2021, Plaintiff asked for additional time to respond to the Court's Order, Dkt. 41;

WHEREAS on October 1, 2021, the Court adjourned Plaintiff's time to respond to the Order to November 5, 2021, Dkt. 42;

WHEREAS the Court informed Plaintiff that if she did not show cause, or if she did not respond to the Order by November 5, 2021, the case would be dismissed with prejudice, *id.*; and


WHEREAS Plaintiff did not respond to the Court's Order by the deadline and no response has been received as of the date of this Order.

IT IS HEREBY ORDERED that the case against Defendant Live Well, Financial, Inc. is DISMISSED with prejudice.

The Clerk of Court is respectfully directed to terminate Defendant Live Well Financial, Inc. The Clerk is further directed to terminate all open motions and to close this case. The Clerk is further directed to mail a copy of this Order to the *pro se* Plaintiff and to note the mailing on the docket.

SO ORDERED.

**Date: November 30, 2021
New York, NY**


VALERIE CAPRONI
United States District Judge